

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FLOSPORTS, INC.

v.

WWN, INC.

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Civ. No. 1:17-cv-1043-LY

DECLARATION OF PHIL WENDLER

STATE OF TEXAS

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COUNTY OF TRAVIS

I, Phil Wendler declare:

1. My name is Phil Wendler. I am over the age of eighteen (18) years. My business address is 979 Springdale Road Suite 120, Austin, Texas 78702. I am of sound mind and have personal knowledge of the facts stated herein, which are all true and correct.
2. I serve as FloSports' Senior Vice President of Global Rights Acquisition and Subscription. I participated in the negotiations and execution of the Exclusive Media Agreement ("the Agreement") in Austin, Texas. Toby Mergler consulted with me about the viewership data that WWN had provided, and we used that data to collectively create the proposal that became the parties' agreement. We did that work in Austin, Texas.
3. After Sal Hamoui executed the contract in Austin, Texas, I joined him and Toby Mergler for a drink to celebrate at Lustre Pearl.
4. To my knowledge after internal investigation, no FloSports employee ever went to WWN's Florida offices nor negotiated any terms of the Agreement in Florida. FloSports performed its advertising, streaming, and all other contractual WWN services from its headquarters in Austin, Texas.
5. After executing the Agreement, WWN conducted two additional live events in San Antonio, Texas that were governed by the Agreement. Agents from FloSports and WWN were onsite in San Antonio, Texas for these live events, which were held in January 2017. As noted in Sal Hamaoui's email dated February 21, 2017, the parties planned two additional live events for November 2017 in Houston, Texas, but FloSports' involvement in those events was canceled as a result of the parties' dispute.

EXHIBIT

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exhibitsticker.com

6. Discovery conducted so far has revealed at least 368 emails sent from WWN representatives to FloSports representatives based in Austin, Texas during the course of the parties' dealings, in addition to numerous text messages, several conference calls between the parties, and the in-person meetings in Texas.

I declare under penalty of perjury on this 27th day of November, 2017, that the foregoing is true. Signed at Austin, Texas.

A handwritten signature in black ink, appearing to read 'Phil Wendler', is written over a horizontal line.

Phil Wendler